

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.

----- X  
GREGORY ZANDERS and JAMES TEN,

★ SEP 17 2003

Plaintiffs,

- against -

(S.I.)  
MESIVTA CHAIM SHLOMO OF YESHIVA DARCHEI  
TORAH, CONGREGATION DARCHEI TORAH,  
YESHIVA DARCHEI TORAH, INC. and YESHIVA  
DARCHEI TORAH.

Defendants.  
----- X

COMPLAINT

LONG ISLAND OFFICE

**CV 03**  
Plaintiff demands a  
trial by jury.

**4731**

**BLOCK, J.**

**ORIGINAL**

**POLLAK, M.**

Plaintiffs GREGORY ZANDERS (hereinafter "ZANDERS") and JAMES TEN  
(hereinafter "TEN"), as and for their complaint, by their attorneys the LAW OFFICES OF  
DAVID J. SUTTON, PLLC allege and state the following:

INTRODUCTION

1. This is a proceeding for damages based upon the defendant's failure to  
pay overtime wages in violation of the Fair Labor Standards Act.

JURISDICTION AND VENUE

2. The jurisdiction of the Court over this controversy is based upon 28 U.S.C.  
§1331, whereas the action arises under the Constitution, laws, or treaties of the United  
States.

3. Venue lies in the United States District Court for the Eastern District of  
New York under 28 U.S.C. §1391(b) as (1) the defendant resides in the County of  
Queens, City and State of New York and (2) the events or omissions giving rise to the  
claim occurred in the County of Queens, City and State of New York.

**THE PARTIES**

4. At all times hereinafter mentioned, plaintiff ZANDERS was, and still is, an individual residing in the state of New York, and presently resides at 249 Beach 15<sup>th</sup> Street, Apt. 300R, Far Rockaway, New York 11691.

5. At all times hereinafter mentioned, plaintiff ZEN was an individual residing in the state of New York, and presently resides at 66 Village Drive, Dover, DE 19901.

6. At all times hereinafter mentioned, defendant MESIVTA CHAIM SHLOMO OF YESHIVA DARCHEI TORAH was, and still is, a religious organization duly organized and existing under the laws of the State of New York, and having a place of business at 257 Beach 17<sup>th</sup> Street, Far Rockaway, NY 11691.

7. At all times hereinafter mentioned, defendant CONGREGATION DARCHEI TORAH was, and still is, a religious organization duly organized and existing under the laws of the State of New York, and having a place of business at 257 Beach 17<sup>th</sup> Street, Far Rockaway, NY 11691.

8. At all times hereinafter mentioned, defendant YESHIVA DARCHEI TORAH, INC. was, and still is, a corporation duly organized and existing under the laws of the State of New York, and having a place of business at 257 Beach 17<sup>th</sup> Street Far Rockaway, NY 11691.

9. At all times hereinafter mentioned, defendant YESHIVA DARCHEI TORAH was, and still is, a corporation duly organized and existing under the laws of the State of New York, and having a place of business at 257 Beach 17<sup>th</sup> Street Far

**AS AND FOR A FIRST CAUSE OF ACTION  
ON BEHALF OF PLAINTIFF ZANDERS**

10. Plaintiff repeats, realleges and reiterates each and every allegation contained in paragraphs "1" through "9" with the same force and effect as if fully set forth herein.

11. That on February 1, 1998, defendants employed ZANDERS as a full-time employee and paid him wages on an hourly basis.

12. That during the time period spanning February 1, 1998 through May 16, 2003, defendants failed, neglected, and/or refused to pay overtime wages due and owing to ZANDERS.

13. That defendants' failure to pay overtime wages to ZANDERS constitutes a violation of the labor laws of the United States, to wit, 29 U.S.C. § 207 (a)(1) of the Fair Labor Standards Act of 1938, which requires payment of overtime wages at the rate of 1-1/2 times an employee's regular rate for all time worked in excess of forty (40) hours per week.

14. That defendants' failure to pay overtime wages to ZANDERS constitutes a violation of the Labor Law of the State of New York, to wit, Article 19, §§ 650 - 665 of the Minimum Wage Act and 12 N.Y.C.R.R. 142-2.2, which require payment of overtime wages at the rate of 1-1/2 times an employee's regular rate for all time worked in excess of forty (40) hours per week.

15. By reason of the foregoing, plaintiff ZANDERS has sustained damages of unpaid overtime wages in the approximate amount of TWENTY THOUSAND (\$20,000.00) DOLLARS, plus interest.

**AS AND FOR A SECOND CAUSE OF ACTION  
ON BEHALF OF PLAINTIFF ZANDERS**

16. Plaintiff repeats, realleges and reiterates each and every allegation contained in paragraphs "1" through "15" with the same force and effect as if fully set forth herein.

17. That defendants' failure, neglect and/or refusal to pay overtime wages was willful, intentional, and deliberate.

18. By reason of the foregoing, plaintiff ZANDERS is entitled to an additional amount of the unpaid overtime wages as liquidated damages, in the approximate amount of TWENTY THOUSAND (\$20,000.00) DOLLARS.

**AS AND FOR A THIRD CAUSE OF ACTION  
ON BEHALF OF PLAINTIFF TEN**

19. Plaintiff repeats, realleges and reiterates each and every allegation contained in paragraphs "1" through "18" with the same force and effect as if fully set forth herein.

20. That on February 1, 1999, defendants employed TEN as a full-time employee and paid him wages on an hourly basis.

21. That during the time period spanning February 1, 1999 through August 2003, defendants failed, neglected, and/or refused to pay overtime wages due and owing to ZEN.

22. That defendants' failure to pay overtime wages to TEN constitutes a violation of the labor laws of the United States, to wit, 29 U.S.C. § 207 (a)(1) of the Fair Labor Standards Act of 1938, which requires payment of overtime wages at the rate of 1-1/2 times an employee's regular rate for all time worked in excess of forty (40) hours

per week.

23. That defendants' failure to pay overtime wages to TEN constitutes a violation of the Labor Law of the State of New York, to wit, Article 19, §§ 650 - 665 of the Minimum Wage Act and 12 N.Y.C.R.R. 142-2.2, which require payment of overtime wages at the rate of 1-1/2 times an employee's regular rate for all time worked in excess of forty (40) hours per week.

24. By reason of the foregoing, plaintiff TEN has sustained damages of unpaid overtime wages in the approximate amount of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS, plus interest.

**AS AND FOR A FOURTH CAUSE OF ACTION  
ON BEHALF OF PLAINTIFF TEN**

25. Plaintiff repeats, realleges and reiterates each and every allegation contained in paragraphs "1" through "24" with the same force and effect as if fully set forth herein.

26. That defendants' failure, neglect and/or refusal to pay overtime wages was willful, intentional, and deliberate.

27. By reason of the foregoing, plaintiff TEN is entitled to an additional amount of the unpaid overtime wages as liquidated damages, in the approximate amount of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS.

**AS AND FOR A FIFTH CAUSE OF ACTION  
ON BEHALF OF PLAINTIFFS ZANDERS AND TEN**

28. Plaintiff repeats, realleges and reiterates each and every allegation contained in paragraphs "1" through "27" with the same force and effect as if fully set forth herein.

29. That, as a result of defendants' failure, neglect and/or refusal to pay overtime wages, ZANDERS and TEN retained the services of an attorney, THE LAW OFFICES OF DAVID J. SUTTON, PLLC, to collect the unpaid overtime wages.

30. That ZANDERS and TEN have incurred, and continue to incur, costs, expenses and attorney's fees in connection with the commencement and continuation of this action.

31. By reason of the foregoing, ZANDERS and TEN are entitled to recover the costs of this action and such reasonable attorneys fees as may be allowed by the Court.

**WHEREFORE**, plaintiffs GREGORY ZANDERS and JAMES TEN hereby demand judgment pursuant to the federal Fair Labor Standards of Act of 1938, Labor Law §§ 650-665 and 12 N.Y.C.R.R. 142-2.2, as follows:

(a) On the First Cause of Action, monetary damages in the amount of Twenty Thousand (\$20,000.00) Dollars plus Interest;

(b) On the Second Cause of Action, liquidated damages in the amount of Twenty Thousand (\$20,000.00) Dollars;

(c) On the Third Cause of Action, monetary damages in the amount of Twenty-Five Thousand (\$25,000.00) Dollars plus Interest;

(d) On the Fourth Cause of Action, liquidated damages in the amount of Twenty Thousand (\$25,000.00) Dollars;

(e) On the Fifth Caus of Action, the costs of this action and such reasonable attorneys fees as may be allowed by the Court;

(f) Together with such other and further relief as may be just and proper.

Dated: Garden City, New York  
September 12, 2003



LAW OFFICES OF  
DAVID J. SUTTON, PLLC

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